

HEALTH EDUCATION AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to health courses taught in public schools.

Highlighted Provisions:

This bill:

- directs the State Board of Education to:

- establish curriculum requirements that include instruction in human development, healthy relationships, and reproductive health, including a general discussion of contraception with its benefits and limitations; and

- select instructional materials for use in a general discussion of contraception with its benefits and limitations;

- imposes restrictions relating to health instruction;

- requires that instructional materials for health instruction provide opportunities for interaction between a student and the student's parent or guardian; and

- makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

SB0054

53A-13-101, as last amended by Laws of Utah 2004, Chapter 196

53A-13-101.1, as enacted by Laws of Utah 1993, Chapter 95

ENACTS:

53A-13-109.5, Utah Code Annotated 1953

53A-13-111, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-13-101** is amended to read:

53A-13-101. Instruction in health -- Parental consent requirements.

(1) ~~[(a)]~~ The State Board of Education shall establish curriculum requirements under Section 53A-1-402, that include instruction in:

~~[(i)]~~ (a) community and personal health;

~~[(ii)]~~ (b) physiology;

~~[(iii)]~~ (c) personal hygiene; ~~[and]~~

~~[(iv)]~~ (d) prevention of communicable disease~~[-];~~ and

~~[(b) (i) That instruction shall stress:]~~

(e) human development, healthy relationships, and reproductive health, including a general discussion of contraception with its benefits and limitations.

(2) Instruction provided under Subsection (1) shall stress:

(a) that parents and legal guardians have the primary responsibility for instructing children about the items described in Subsection (1);

~~[(A)]~~ (b) the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; and

~~[(B)]~~ (c) personal skills that encourage individual choice of abstinence and fidelity.

(3) Instruction provided under Subsection (1) may not include:

(a) instruction in the intricacies of intercourse, sexual stimulation, or erotic behavior;

(b) the advocacy of homosexuality;

(c) the distribution of contraceptive devices;

(d) explicit demonstrations of contraceptive devices; or

(e) the advocacy of sexual activity outside of marriage.

~~[(ii)-(A)]~~ (4) (a) At no time may instruction be provided, including responses to

spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

~~[(B)]~~ (b) Subsection ~~[(1)(b)(ii)(A)]~~ (4)(a) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

~~[(c)(i) The board]~~ (5) Except as provided in Subsection (8), the State Board of Education shall recommend instructional materials for use in the curricula required under Subsection (1)~~[(a)]~~ after considering evaluations of instructional materials by the State Instructional Materials Commission.

~~[(ii) A]~~ (6) Except as provided in Subsection (9), a local school board or charter school governing board may choose to adopt:

~~[(A)]~~ (a) the instructional materials recommended under Subsection ~~[(1)(c)(i)]~~ (5); or

~~[(B)]~~ (b) other instructional materials as provided in state board rule.

~~[(iii)]~~ (7) The state board rule made under Subsection ~~[(1)(c)(ii)(B)]~~ (6)(b) shall include, at a minimum:

~~[(A)]~~ (a) that the materials adopted by a local school board or charter school governing board under Subsection ~~[(1)(c)(ii)(B)]~~ (6)(b) shall be based upon recommendations of the school district's or charter school's Curriculum Materials Review Committee ~~[that comply with state law and state board rules emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:]~~

~~[(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;]~~

~~[(H) the advocacy of homosexuality;]~~

~~[(III) the advocacy or encouragement of the use of contraceptive methods or devices;~~

or]

~~[(IV) the advocacy of sexual activity outside of marriage;]~~

~~[(B)]~~ (b) that the adoption of instructional materials shall take place in an open and public regular meeting of the local school board ~~[for which prior notice is given to]~~ or charter school governing board;

(c) that parents and guardians of students attending schools in the school district ~~[and]~~ or the charter school shall:

(i) receive prior notice of the meeting at which the local school board or charter school

governing board adopts instructional materials; and

(ii) have an opportunity ~~[for them]~~ to express their views and opinions on the materials at the meeting;

~~[(C)]~~ (d) a provision for an appeal and review ~~[process]~~ of the local school board's or charter school governing board's decision; and

~~[(D)]~~ (e) a provision for a report by the local school board or charter school governing board to the State Board of Education of the action taken and the materials adopted by the local school board or charter school governing board under Subsections ~~[(1)(c)(ii)(B) and (1)(c)(iii)]~~ (6)(b) and (7).

(8) The State Board of Education shall select instructional materials for use in a general discussion of contraception with its benefits and limitations after considering:

(a) evaluations of instructional materials by the State Instructional Materials Commission; and

(b) public comment.

(9) School districts and charter schools shall use only materials selected pursuant to Subsection (8) when providing instruction relating to contraception.

(10) Instructional materials recommended by the State Board of Education under Subsection (5), instructional materials adopted by a local school board or charter school governing board under Subsections (6)(b) and (7), and instructional materials selected by the State Board of Education under Subsection (8) shall:

(a) provide opportunities for interaction between a student and the student's parent or legal guardian; and

(b) comply with Subsections (2) and (3).

~~[(2)]~~ (11) (a) Instruction in the courses described in Subsection (1) shall be ~~[consistent and systematic]~~ medically accurate and appropriate in grades ~~[eight]~~ seven through 12.

(b) At the request of the ~~[board]~~ State Board of Education, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.

~~[(3)]~~ (12) (a) The ~~[board]~~ State Board of Education shall adopt rules that:

(i) provide ~~[that]~~ for compliance with the parental consent requirements of Sections 76-7-322 and 76-7-323 ~~[are complied with]~~; and

(ii) require a student's parent or legal guardian to be notified in advance and have an

121 opportunity to review the information for which parental consent is required under Sections
122 76-7-322 and 76-7-323.

123 (b) The ~~[board]~~ State Board of Education shall ~~[also]~~ provide procedures for
124 disciplinary action for violation of Section 76-7-322 or 76-7-323.

125 ~~[(4)(a) In keeping with the requirements of Section 53A-13-109, and because school~~
126 ~~employees and volunteers serve as examples to their students, school employees or volunteers~~
127 ~~acting in their official capacities may not support or encourage criminal conduct by students,~~
128 ~~teachers, or volunteers.]~~

129 ~~[(b) To ensure the effective performance of school personnel, the limitations described~~
130 ~~in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official~~
131 ~~capacities if:]~~

132 ~~[(i) they knew or should have known that their action could result in a material and~~
133 ~~substantial interference or disruption in the normal activities of the school; and]~~

134 ~~[(ii) that action does result in a material and substantial interference or disruption in the~~
135 ~~normal activities of the school.]~~

136 ~~[(c) Neither the State Office of Education nor local school districts may provide~~
137 ~~training of school employees or volunteers that supports or encourages criminal conduct.]~~

138 ~~[(d) The State Board of Education shall adopt rules implementing this section.]~~

139 ~~[(e) Nothing in this section limits the ability or authority of the State Board of~~
140 ~~Education and local school boards to enact and enforce rules or take actions that are otherwise~~
141 ~~lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing~~
142 ~~unfitness for duty.]~~

143 ~~[(5) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,~~
144 ~~religious, or denominational doctrine may not be taught in the public schools:]~~

145 ~~[(6)(a) Local school boards and their employees shall cooperate and share~~
146 ~~responsibility in carrying out the purposes of this chapter.]~~

147 ~~[(b) Each school district shall provide appropriate inservice training for its teachers,~~
148 ~~counselors, and school administrators to enable them to understand, protect, and properly~~
149 ~~instruct students in the values and character traits referred to in this section and Sections~~
150 ~~53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and~~
151 ~~distribute appropriate written materials on the values, character traits, and conduct to each~~

individual receiving the inservice training.]

~~[(c) The written materials shall also be made available to classified employees, students, and parents and guardians of students.]~~

~~[(d) In order to assist school districts in providing the inservice training required under Subsection (6)(b), the State Board of Education shall as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (6)(b) to develop and disseminate model teacher inservice programs which districts may use to train the individuals referred to in Subsection (6)(b) to effectively teach the values and qualities of character referenced in that subsection.]~~

~~[(e) In accordance with the provisions of Subsection (4)(c), inservice training may not support or encourage criminal conduct.]~~

~~[(7) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.]~~

Section 2. Section **53A-13-101.1** is amended to read:

53A-13-101.1. Political and religious doctrine prohibited -- Maintaining constitutional freedom in the public schools.

(1) Except as provided in this section, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in public schools.

~~[(H)]~~ (2) Any instructional activity, performance, or display which includes examination of or presentations about religion, political or religious thought or expression, or the influence [thereof] of religion or political or religious thought or expression on music, art, literature, law, politics, history, or any other element of the curriculum, including the comparative study of religions, [which] may be undertaken in public schools, if the instructional activity, performance, or display is:

(a) designed to achieve secular educational objectives included within the context of a course or activity; and

(b) conducted in accordance with applicable rules of the [state and local boards of education, may be undertaken in the public schools] State Board of Education and policies of the local school board or charter school governing board.

[~~(2)~~] (3) No aspect of cultural heritage, political theory, moral theory, or societal value shall be included within or excluded from public school curricula for the primary reason that it affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence of a spiritual realm or supreme being.

[~~(3)~~] (4) Public schools may not sponsor prayer or religious devotionals.

[~~(4)~~] (5) School officials and employees may not use their positions to endorse, promote, or disparage a particular religious, denominational, sectarian, agnostic, or atheistic belief or viewpoint.

Section 3. Section **53A-13-109.5** is enacted to read:

53A-13-109.5. Conduct and speech of school employees and volunteers.

(1) In keeping with the requirements of Section 53A-13-109, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(2) To ensure the effective performance of school personnel, the limitations described in Subsection (1) also apply to school employees or volunteers acting outside of their official capacities if:

(a) they know or should have known that their action could result in a material and substantial interference or disruption in the normal activities of the school; and

(b) that action results in a material and substantial interference or disruption in the normal activities of the school.

(3) Neither the State Office of Education nor a school district or charter school may provide training of school employees or volunteers that supports or encourages criminal conduct.

(4) The State Board of Education shall adopt rules implementing this section.

(5) Nothing in this section limits the ability or authority of the State Board of Education, a local school board, or charter school governing board to enact and enforce rules or policies or take actions that are otherwise lawful regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(6) If a provision, subsection, sentence, clause, phrase, or word of this section, or the application of it to any person or circumstance, is found to be unconstitutional, the balance of

214 this section shall be given effect without the invalid provision, subsection, sentence, clause,
215 phrase, or word.

216 Section 4. Section **53A-13-111** is enacted to read:

217 **53A-13-111. Inservice training in values and character traits.**

218 (1) A school district or charter school shall provide appropriate inservice training for
219 its teachers, counselors, and school administrators to enable them to understand, protect, and
220 properly instruct students in the values and character traits referred to in Sections
221 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and
222 distribute appropriate written materials on the values, character traits, and conduct to each
223 individual receiving the inservice training.

224 (2) The written materials shall also be made available to classified employees, students,
225 and parents and guardians of students.

226 (3) In order to assist school districts and charter schools in providing the inservice
227 training required under Subsection (1), the State Board of Education shall as appropriate,
228 contract with a qualified individual or entity possessing expertise in the areas referred to in
229 Subsection (1) to develop and disseminate model teacher inservice programs which districts
230 may use to train the individuals referred to in Subsection (1) to effectively teach the values and
231 qualities of character referenced in Subsection (1).

232 (4) In accordance with the provisions of Section 53A-13-109.5, inservice training may
233 not support or encourage criminal conduct.

Legislative Review Note

as of 1-27-10 12:15 PM

Office of Legislative Research and General Counsel